

# IN THE MICHIGAN COURT OF APPEALS

## ORDER

Re: **People of MI v Joseph Frank Gerritsen**

Docket No. **283340**

L.C. No. **01-001086 FH**

Christopher M. Murray, Chief Judge Pro Tem, acting under MCR 7.203(F)(1) and 7.216(A)(10), orders:

The delayed application for leave to appeal filed on January 30, 2008, is **DISMISSED** for lack of jurisdiction because the defendant cannot appeal the denial or rejection of a successive motion for relief from judgment. See MCR 6.502(G)(1). Defendant previously filed and lost one motion for relief from judgment. See No. 248790. Defendant is not entitled to a second motion for relief from judgment under *Halbert v Michigan*, 545 US 605; 125 S Ct 2582; 162 L Ed2d 552 (2005), because that decision does not have retroactive application. See *People v Houlihan*, 480 Mich 1165 (2008), citing *Simmons v Kapture*, 516 F3d 450 (CA6, 2008).



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JUN 11 2008

Date

*Sandra Schultz Mengel*

Chief Clerk